

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
November 9, 2004

The meeting was called to order at 6:31 p.m. by Council President Wilson.

Council Present: Councilors Moore, Sherwood, Wilson, Woodruff. Mayor Dirksen was excused.

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:32 p.m. to discuss pending litigation under ORS 192.660(2)(h).

Executive Session concluded at 7:07 p.m.

- STUDY SESSION

- > LEAGUE OF OREGON CITIES FOLLOW-UP – Mr. Monahan distributed copies of handouts relating to the League of Oregon Cities Annual Meeting (Exhibit 1 – League's Legislative Report & Positions, Exhibit 2 – Measure 37: Some Preliminary Thoughts for Implementation by Cities, Exhibit 3 – Hometown Voices – on file with the City Recorder).
- > SAFETY AWARD - Mr. Monahan noted Tigard had received the Gold Safety Award for similar sized cities. He will present the award during the Business Meeting.
- > NATIONAL LEAGUE OF CITIES - 3rd ATTENDEE – Mr. Monahan noted Councilor-Elect Sally Harding has indicated she would like to attend the NLC conference in December.
- > JOINT MEETING TIGARD-TUALATIN SCHOOL DISTRICT & CITY OF TUALATIN AGENDA ITEMS - Monday, November 15, a Tigard/Tualatin School District office on Sandburg St., 6:30 pm
- > FIFTH TUESDAY DISCUSSION - First session: Tuesday, November 30 - Mr. Monahan distributed his memo (Exhibit 4) which describes the format of the meeting. The Councilors discussed what they hoped would be achieved from this as well as the format of the meeting.
- > DOWNTOWN TREE LIGHTING IS ON DECEMBER 3, 2004 – Mr. Monahan noted this will be held at Liberty Park.

- > MAYOR'S APPOINTMENT ADVISORY BOARD
JANUARY 2005 – JUNE 2005 - TOM WOODRUFF
JULY 2005 – DECEMBER 2005 - SALLY HARDING

The Council concurred with these appointments.

- > ADMINISTRATIVE ITEMS

- a. Calendar Review

- November 11: Veterans Day- - City Hall Closed
- November 16: City Council Workshop Meeting – 6:30 pm
- November 23: City Council Business Meeting – 6:30 pm
- November 25: Thanksgiving - City Hall Closed
- November 26: City Hall Closed – LIBRARY OPEN
- November 30: 5th Tuesday – Water District Auditorium/Lobby Conf. Room – 6:30 pm
- December 1-4: National League of Cities Conference- Indianapolis
- December 6: Cathy Wheatley returns!
- December 14: City Council Business Meeting – 6:30 pm
- December 21: City Council Workshop Meeting – 6:30 pm
- December 24: City Hall Closed - LIBRARY OPEN
- December 28: City Council Business Meeting – 6:30 pm
- December 31: City Hall Closed – LIBRARY OPEN

- > REVISED DRAFT ORDINANCE ON ALPINE VIEW ANNEXATION

Mr. Hendryx presented a memo and revised draft ordinance for the Alpine View Annexation scheduled for the business meeting.

- > RESOLUTION WITHDRAWING/RESCINDING RESOLUTION 04-58

Mr. Ramis indicated this issue had been reviewed during the Executive Session, and Council would be requested to approve the proposed resolution.

Study session recessed at 7:35 p.m.

1. BUSINESS MEETING

- 1.1 Council President Wilson called the Council and Local Contract Review Board Meeting to order at 7:38 p.m.
- 1.2 Roll Call: Councilors Moore, Sherwood, Wilson and Woodruff were present; Mayor Dirksen was excused.
- 1.3 Pledge of Allegiance

1.4 Council Communications & Liaison Reports

Mr. Monahan noted Tigard received the Gold Safety Award at the League of Oregon Cities Annual Conference from LOC and the City/County Insurance Services. The City's injury frequency rate of 1.47 in Fiscal Year 2003-04 was the best record for larger cities, and represents the fine work of Risk Manager Loreen Mills and her staff, as well as all employees who make safety a high priority. Tigard received this award several years ago.

Council President Wilson announced the Council's first Fifth Tuesday meeting is a time for the public to come and discuss any issue they want in a more relaxed environment. The first event will be held November 30 from 7 to 9 p.m. in the Water Building. Several councilors will attend the meeting, which will be facilitated by a volunteer facilitator.

Mr. Monahan noted a press release will be issued with more details, and the event also announced in area newspapers and on the City's website.

1.5 Call to Council and Staff for Non-Agenda Items - none

2. CITIZEN COMMUNICATION

- Dan Murphy, immediate past president of the Chamber of Commerce, updated the Council on Tigard Area Chamber of Commerce activities, including the Washington Square 2 Parking Garage ribbon cutting, Lunch Forum and networking events, Christmas Tree Lighting on Main Street, and the Holiday Shoebox project.
- John Frewing, 7110 SW Lola Lane, Tigard, stated he had two concerns:
 - * Requested Council not completely drop the Bull Mountain Annexation planning as the area will eventually be part of the City of Tigard, and noted as long as the urban services agreement exists with Washington County covering that area, the City needs to continue its dialogue with residents. He noted the City also needs to be more involved in the Metzger area as well.
 - * Noted there has been a lot of heavy equipment operating in the wetland and flood plain area along Fanno Creek. After checking with the City, he found no permit had been issued for any such work. He feels this work violates the 50-foot buffer requirement in wetland and flood plain areas required by the Corps of Engineers and Clean Water Services, and requested the City enforce those regulations before damage occurs. He noted some of the grading has taken place within five feet of Fanno Creek. An e-mail was sent to Mayor Dirksen about this issue.

Council President Wilson noted Mr. Frewing's messages and staff responses were forwarded to all the Councilors so everyone was aware of his concerns.

Mr. Monahan noted Mr. Duenas will address this concern at the end of the meeting.

- Gretchen Buehner, 3249 SW 136th Place, Tigard, noted the last *Cityscape* newsletter was not received by citizens until the middle of the month, after several important meetings and events highlighted in the issue had already taken place. She understood there were problems getting State approval relating to some articles, as well as other problems. She urged the City staff to look at its policies to ensure this does not happen again, and that the next issue include an apology and explanation of why this issue of *Cityscape* was late.

Mr. Monahan explained Ms. Newton had informed the Council when this occurred about the reasons for the delay, and there wasn't any new information to be presented.

Council President Wilson suggested Ms. Newton explain at this time what occurred as the public might not be aware of the circumstances.

Ms. Newton noted staff's goal is to have *Cityscape* reach citizens the first of the month. The last issue of *Cityscape* included information about the Bull Mountain annexation that staff felt needed to be reviewed by the State Elections Office. Because the State had received a number of requests and the amount of information submitted to the State Elections for review, there was a delay in processing Tigard's information. Staff did pull several items from the newsletter that were occurring at the beginning of the month, but felt the newsletter containing information regarding City Hall Day on October 14 would reach residents in plenty of time. She noted she received her copy on October 13, but heard some residents did not receive their copy until the 16th. Ms. Newton noted the City's commitment was to get the newsletter out by the first of the month. She noted if the City runs into a similar situation in the future, they will submit information earlier to the State Election Office for their review.

Mr. Monahan noted Ms. Newton had also pointed out there were other sources where citizens could get information about the City Hall Day other than *Cityscape*, such as area newspapers and the City's website. Staff does not depend entirely on *Cityscape* to inform citizens of events and meetings, but staff is aware that *Cityscape* is a major means of communication with the public. He appreciated hearing the concerns from citizens that *Cityscape* is used and relied upon as a source of

information for what is happening in the City. Staff will try their best to see that the Cityscape is in citizen's hands by the end of the month.

- Alice Ellis Gaut, 10947 SW Chateau Lane, Tigard, congratulated Councilor Woodruff on his election, noting she was impressed with the goals he had expressed at various forums and interviews. His goals included managing residential growth, acquiring more land for parks and open space, working on better channel of communications, as well as proposing the Citizen Forums on Fifth Tuesdays. She stated she would help Councilor Woodruff and the other Councilors work on those goals. She also congratulated Councilor-Elect Sally Harding, and expressed the hope that the next four years will be fruitful to the Council and the City.

Council President Wilson noted the election results will be discussed later on the Council's agenda; he congratulated Mayor Dirksen, Councilor Woodruff and Councilor-Elect Sally Harding, as well as the other candidates who ran for office, and hoped they will remain involved in other City programs.

- Lisa Hamilton-Treick, 13565 SW Beef Bend Road, unincorporated Bull Mountain area, asked for clarification regarding who can participate in the Fifth Tuesday Citizen Forums. During the earlier study session, it was indicated the Citizen Forums were for City of Tigard residents only.

Council President Wilson concurred that was what Council discussed, but it would include issues related to City of Tigard business. This process is an experiment, but the intent would not to stifle communication by citizens. There needs to be some structure to the process.

Ms. Hamilton-Treick noted as a resident of unincorporated Bull Mountain area, she was concerned that residents of that area, who live in the area subject to Tigard's urban services agreement, would not be precluded from participating at the Citizen Forum. This should be the case as long as the Urban Services agreement is in effect for that area. The area receives water and storm sewer service to that area.

- FOLLOW-UP TO PREVIOUS MEETING COMMENTS

Mr. Monahan noted follow-up to the concerns raised at the October 26 meeting relating to the four resolutions adopted October 12 were all focused on Council resolutions relating to the Bull Mountain annexation process, and his interpretation was that clarification had been made at that time, and therefore no additional follow-up was needed.

3. CONSENT AGENDA

Rob Williams, Youth Advisory Council President, read the consent agenda.

Upon motion by Councilor Sherwood, seconded by Councilor Woodruff, to adopt the Consent Agenda as follows:

- 3.1 Approve Council Minutes for October 19, 2004
- 3.2 Receive and File
 - a. Council Calendar
 - b. Tentative Agenda
- 3.3 Appoint Planning Commission Members: RESOLUTION NO. 04-86 – A RESOLUTION TO REAPPOINT KATHERINE MEADS AND JUDY MUNRO TO THE PLANNING COMMISSION.
- 3.4 Approve GSA Per Diem for Council and Executive Staff: RESOLUTION 04-87 – A RESOLUTION WHICH SUPERSEDES RESOLUTION NO. 01-60 AND SETS POLICY ON PER DIEM ALLOWANCES FOR THE CITY COUNCIL AND EXECUTIVE STAFF WHEN TRAVELING FOR MORE THAN ONE DAY ON OFFICIAL BUSINESS OF THE CITY.
- 3.5 Approve Budget Amendment #4 To Increase Appropriations for Funding of a Firewall for the City's Computer Network: RESOLUTION. 04-88 – A RESOLUTION APPROVING BUDGET AMENDMENT #4 TO THE FY 2004-05 BUDGET TO INCREASE APPROPRIATIONS FOR FUNDING OF A FIREWALL FOR THE CITY'S COMPUTER NETWORK.
- 3.6 Local Contract Review Board
 - a. Award contract for HVAC Maintenance Services

The motion was approved by a unanimous vote:

Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Council President Wilson noted one of the Planning Commission members, Ms. Meads, who was being reappointed, was in the audience.

4. UPDATE ON YOUTH ADVISORY COUNCIL & YOUTH FORUM

Liz Newton, Assistant to the City Manager, reviewed the history of the Youth Advisory Council and Youth Forum. This program is now in its second year, and

members of the Youth Advisory Council will present their report. The Youth Advisory Council Board at a recent meeting, made some changes to their bylaws. They are filing for a grant that if successful would provide \$100,000 a year for five years to fund youth programs in the city. Connie Ramaekers of the Tigard School District and Shelley Richards assist with the program.

Rob Williams, Youth Advisory Council President, noted this program allows youth to be represented on a number of boards and commissions in the city, giving the youth members a way to express their opinions and feel their opinions are valued. He then reviewed the mission and vision statements of the Youth Advisory Council.

The following members of the Youth Advisory Council presented reports: Sammi Trestik, Alexander Carson, Sarah Walsh, Ethan Brown, and Brandon Arocha.

Mr. Williams noted members were working with City staff in order to develop space on the City's website and Cityscape dedicated to youth programs. Formal action by Council is requested to acknowledge the Youth Advisory Council's mission and vision statements.

Councilor Moore stated he was impressed with YAC's accomplishments of the past year and plans for the upcoming year. He felt it was an omission on the part of the Council for not recognizing their efforts sooner.

Councilor Sherwood noted the organization she works for has been a recipient of some of the services, including receiving some of the blankets YAC collected which were then given to needy families in the area. She concurred that what the Youth Advisory Council is doing is great for the community.

Councilor Woodruff asked how many youth participate currently and what schools are represented. Mr. Williams stated there are currently 13 members of the Board, but hope to eventually have 30 members so they have subcommittees working on different programs, based on interest. Some members are home-schooled, as well as students at Tigard High and Jesuit High, and some other outlying schools.

Ms. Newton noted that Mr. Williams is an ex-officio member of the City Council, Mr. Brown serves on the Parks and Recreation Board, Ms. Trestik was just offered a position on the Library Advisory Board; Paul Iford is on the Downtown Task Force and has also expressed interest to serve on the Planning Commission, and several youth are offering to sit on the Mayor's Youth Forum. At their last meeting, the YAC board members planned their whole calendar of events for the

upcoming year, and approved all committee assignments. The Youth Advisory Council members are very productive and committed.

5. OREGON DEPARTMENT OF TRANSPORTATION HALL BOULEVARD/MATT GARRETT

Gus Duenas, City Engineer, explained last March, Council had met with Matt Garrett, the new ODOT Region 1 Manager, about projects that would benefit Tigard regardless of jurisdiction. Four issues had been identified of mutual concern.

- 1) Since March, the library has been completed. During the design phase of the library, the City had requested signalization of the intersection on Hall Boulevard. While Region 1 staff had supported the proposal, the project was turned down by the State Traffic Engineer. Since that time, City and Region 1 staffs have been working to convince the State Traffic Engineer's staff to reconsider that decision.
- 2) Sidewalk crossing on Hall Blvd. in front of the Tigard Christian Church has generated a lot of citizen comments and support.
- 3) Paving of Hall Blvd. – This was done without informing the City this was scheduled.
- 4) Improve Hall Blvd., with the future intention of turning it over to the City.

Mr. Garrett commended Mr. Duenas for being proactive in contacting his staff which has set up a good relationship between the two jurisdictions. He noted that three of the four concerns outlined have positive resolution. He then reviewed each of Staff's concerns:

- Region 1 recommended approval of the signalization in front of the library on Hall Blvd., but the State Traffic Engineer overturned the recommendation. His staff has been working with the Traffic Engineer's office, and today he received verbal confirmation of approval as well as that the State Traffic Engineer had signed the necessary forms to begin the process. He will continue to check that the project is on track and gets done.
- The crossing on Hall Blvd. will take approximately six months to a year to complete. ODOT is aware of the increased pedestrian traffic after the library opened between City Hall and the Library. Several options were debated, and just today, came the conclusion that it would be possible to install a crosswalk and appropriate signage to warn motorists they are entering a pedestrian area. The crosswalk will be installed at the location the crossing signalization would eventually be, to avoid later mix-ups.

- He understood the paving job on Hall Blvd. came as a surprise to the City. ODOT got ahead of itself on the paving job, and communication broke down when they did not keep the City informed about the timetable. He has taken steps within the Agency to correct the structural deficiency about notification to affected local agencies prior to projects like this and to make sure the planning and maintenance staffs communicate.
- The possibility of transferring jurisdiction of the Hall Blvd. from ODOT to the City is a very complicated issue, and is one that both Region 1 staff and the Transportation Commission would like to endorse. Staff will be looking at roads, such as Hall Blvd., to see if they no longer serve a state-wide function and if found that it doesn't, then engage in conversation with the appropriate municipality about the possibility to transferring jurisdiction. There are issues such as cost and public benefit of a road transfer to be reviewed, to make sure the possible transfer meets the needs of both jurisdictions. Similar discussions are underway with other municipalities about an intergovernmental transfer of several state roads that run through other cities.

Council President Wilson noted several concerns regarding communication issues. Jack Reardon, manager of the Washington Square Shopping Center, informed him he found out about the improvement of the northbound Hwy. 217/Scholls Ferry Road off-ramp project only two weeks before the construction was to begin. Because Washington Square is the largest generator of traffic in Washington County, he felt Mr. Reardon and the City of Tigard should have been informed much earlier about the project. He is also Tigard's liaison on the Washington County Coordinating Committee, which generally is kept informed about projects like this throughout the County, and this did not occur. He asked how projects like this get funded, who decides on the project, what the public process is, and why Washington Square and the City of Tigard were not involved or informed about this project.

Mr. Garrett responded conversations about this project probably took place over two years ago when money was appropriated for ramp preservation. Since to the Region I office, he has recognized his staff needs to keep ahead of things throughout the Region and to be a better partner with other agencies/municipalities who are affected by ODOT's projects. Mr. Reardon is generally sent notices of all projects impacting Hwy. 217, because they know that Washington Square would be impacted by any work done on Hwy. 217. He will have to go back to his office to find out exactly what happened on this project. He noted this type of project generally is planned out to be accomplished in some future year. There are plans for significant work to be done on Hwy. 217, by adding a third north bound lane between Tualatin Valley Highway and Hwy. 26, with a price tag of over \$30 million, as well as other major projects. They also look at what the function is supposed to be on Hwy. 217, which originally was as a local road function, not as a connector between I-5 and Hwy. 26.

Regarding the question of where these conversations take place, it begins at a grass roots level, and then on through Metro's Joint Policy Advisory Committee on Transportation (JPACT) where representatives from cities and counties rate the various projects, and prioritize needs versus revenue. Most of the projects JPACT is involved with are federal modernization funds that come directly to Metro to be allocated throughout the region.

Mr. Garrett noted the off-ramp project may have been a preservation project which might have been generated through ODOT's road management system. This system has every facility in the State's road system identified, data maintained and updated constantly, and notes when a facility or section is moving into a "poor" condition that needs to be addressed. Staff looks at the list, looks at the dollar costs of improvements, and assigns funds throughout the year. How this happened so quickly is a concern, and he will check on this to make sure this wasn't a fairly intense maintenance effort. Councilor Wilson's question has caught his attention because that is not the way it is supposed to happen.

Council President Wilson stated his next concern relates to the City's update of its comprehensive plan during the next year. A major concern will be the Hwy. 99 Corridor. If ODOT comes to Tigard and says it intends to allocate \$2 million, \$20 million or even \$200 million to upgrade Hwy. 99 that would have a huge impact on how the City handles Hwy. 99 in its comprehensive planning process. He did not know the last time ODOT conducted a study of the Hwy. 99 corridor. The City will be looking at zoning, access control, how much backlog of traffic there is on roads intersecting with Hwy. 99, and how to improve traffic movement. He stated he would like to start having discussions with ODOT to find out if there are plans to make any improvements to Hwy. 99. Some things such as the roads off Hwy. 99 will be the City's responsibility. He hoped the City and ODOT can work together on those concerns over the next year.

Mr. Garrett stated the City has his commitment to have that joint discussion. He will have Region 1's Planning Manager work with the City on this program, but they still need to use their funds strategically, and then make and prioritize its funding resources. The City's challenge is the same as the State's, which is to make the dollars go as far as possible because the needs far exceed revenues. He pointed out that citizens and motorists do not really care if Hwy. 99 is a state, county or city highway as long as they can get from one place to another safely and efficiently. ODOT's concern is to make sure the dollars spent is used strategically and in the best way possible. One way this happens is to meet with cities like this in order to present this comprehensive vision. He completely concurs with Council President Wilson's concern and assured the Council that he or one of his staff will be here to participate in the city's process.

Councilor Woodruff noted every survey or questionnaire taken about livability issues in Tigard has Hwy. 99 as being one of the top three concerns. He noted anything the State can do to raise Hwy. 99 on the State's priority list would be helpful. He noted there have been a lot of complaints about the lack of a crosswalk and/or signal on Hall Blvd. in front of the library, and the City would appreciate anything the State can do to take care of that concern.

Mr. Garrett replied there will be a signal and/crosswalk on Hall Blvd. but installation will take time, between six months to a year. An interim measure might be to put in a temporary crosswalk, and do the full project later. Another possibility would be to install a flashing beacon to warn motorists pedestrians might want to cross Hall Blvd. He stated there would be more bang for the buck if such a beacon or temporary crosswalk is located at the location where the eventual signal would be located.

Councilor Moore asked if the State was in the design phase for improvements for the Hall Blvd. /Hwy. 99 intersection.

Mr. Garrett stated he would have to check on the status of that project.

Mr. Duenas responded that intersection was approved for funding in the MSTIP-3 project list through Washington County.

Councilor Sherwood stated she felt relations between Tigard and ODOT have improved since Mr. Garrett met with the Council in March. She pointed out that as both agencies look at projects of mutual concern, it is better to leverage more dollars to make improvements rather than using our money on small projects that do not make much of a difference, and keep reiterating that traffic can be improved on Hwy. 99. She thanked Mr. Garrett for his assistance.

Mr. Garrett said Tigard and the State also needs to include Washington County in the conversation as well, because that partnership might be the place where additional funding could be leveraged, as the County has some local funds that it allocates. Everyone has the same challenges so everyone needs to work together to take on the challenges.

The Council and Mr. Garrett discussed holding similar meetings on a more routine basis, possibly quarterly or on-as needed basis. Mr. Garrett stated he or someone from his staff will be available whenever the Council would like to meet. Council President Wilson suggested scheduling a meeting when there was a specific project or reason to meet. Mr. Garrett said he will make sure someone from his staff provides information during the City's comprehensive plan process.

Mr. Monahan noted it was conversations during the past year with Mr. Garrett and his staff that finally got the funding for the TGM grant for the downtown planning project. There have been many other successes that have not been discussed. He noted his staff will develop a system to contact Mr. Garrett to schedule a meeting every six months or so, or as needed if something comes up, during the interim period.

6. PUBLIC HEARING (QUASI-JUDICIAL) TO CONSIDER ZONE CHANGE ANNEXATION (ZCA) 2004-00002 ALPINE VIEW ANNEXATION

REQUEST: The applicant is requesting to annex four (4) parcels of land containing 8.69 acres into the City of Tigard. **LOCATION:** Washington County Tax Assessor's Map Numbers 2S109AB, Tax Lots 700, 800, 900 and 1000. **ZONE:** R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** The approval standards for annexations are set out in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Policies 2 and 10; ORS Chapter 222; and Metro Code Chapter 3.09.

- a. Council President Wilson opened the Public Hearing.

The staff report was given at this time (See discussion under section "c").

- b. Declarations or Challenges

Tim Ramis, City Attorney, asked:

- If any member of the Council had any communication with anyone involved in the process that needed to be disclosed on the record – *there were none;*
- If Councilors had viewed the property or were familiar with the property - *there were no disclosures; or*
- If any Councilor had a conflict of interest;
- If any citizen challenged a Councilor to hear this matter – *there were none.*

Councilor Sherwood noted she was personal friends with several of the property owners involved in the proposed annexation and felt she should recuse herself from participating in the hearing.

Councilor Woodruff stated he also knew one of the property owners, but did not feel there was a conflict of interest.

c. Staff Report

Jim Hendryx, Community Development Director, presented the staff report including a PowerPoint presentation (Agenda Item #6, Exhibit #1), a copy of which is on file with the City Recorder. As a result of staff's contacting surrounding property owners, one additional property was added to the application. Mr. Hendryx noted one letter was received prior to this hearing from Thomas J. Murphy, attorney with Scott Hooklane Lawyers, who is representing property owners, James and Shirley Rippey (Agenda Item No. 6, Exhibit 2, and copy on file with the City Recorder). Mr. Murphy's letter addressed the issue of the easement across the Rippey property. His response to Mr. Murphy indicated access is not addressed as part of an annexation proposal, but would be part of the subsequent land use application. In addition, today the staff received some revisions to the draft ordinance from the City Attorney's office (Agenda Item No. 6, Exhibit 3, copy on file with the City Recorder). Copies of the proposed ordinance had been distributed to Council and additional copies were available to the members of the audience. He noted the proposal complies with all applicable standards contained in the comprehensive plan and development code, all service providers were notified of the proposed annexation and no comments or concerns were received.

Councilor Woodruff asked if there was any opposition to the proposal.

Mr. Hendryx noted the only comment was the letter from Mr. Murphy, but that just addressed the issue of the easement and access questions.

d. Public Testimony

Lamoine Eiler, 2387 SW Northrup #9, Portland, representing the applicant, Colton/Fettig Company, stated he was present in case Council had any questions.

e. Staff Recommendation: Mr. Hendryx noted the staff's recommendation was for approval of the revised ordinance.

f. Council Discussion: There was no Council discussion.

g. Council President Wilson closed the Public Hearing.

h. Council Consideration of Ordinance No. 04-11.

Upon motion of Councilor Moore, seconded by Councilor Woodruff, to approve ORDINANCE NO. 04-11 – AN ORDINANCE ANNEXING THE ALPINE VIEW AREA, APPROVING ANNEXATION ZCA 04-00002, AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT, WASHINGTON COUNTY STREET LIGHTING DISTRICT #1, AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT.

The motion was approved by the following vote:

Councilor Moore	-	Yes
Councilor Sherwood	-	Abstain
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

7. ELECTION RESULTS

Ms. Newton reviewed the unofficial results of the November 2 election for Mayor, two Council positions, and Ballot Measure 34-98, Annexation of the Bull Mountain area to the City of Tigard, within the city and the unincorporated Bull Mountain area (Agenda Item No. 7, Exhibit #1 on file with the City Recorder). These results were not final but the County did not anticipate the results would change. The County has 20 days to certify the election results, so the final results will be brought to Council probably on December 14.

Councilor Woodruff noted he and Councilor-Elect Harding thanks the voters for the trust they have placed on them. He complimented Alice Ellis Gaut, Joshua Chaney, and Gretchen Buehner on the campaign, and stated he hoped they would remain active in the City activities as well as consider running again.

8. COUNCIL LIAISON REPORTS

CONSIDER RESOLUTION WITHDRAWING AND RESCINDING RESOLUTION 04-58.

Mr. Ramis noted the Councilors received the proposed resolution during the study session. He noted Council had approved Resolution 04-58 adopting findings relating to the land use decision concerning the Bull Mountain Annexation. The ballot measure was defeated on November 2, and the resolution is no longer necessary. As City Attorney, it is his recommendation that Council rescind the resolution. Another

aspect of this matter is there is a pending LUBA appeal on the land use application (Resolution 04-58), and by rescinding the resolution, it will have the affect of ending that litigation. (Agenda Item No. 8, Exhibit 1 for copy)

Upon motion of Councilor Moore, seconded by Councilor Sherwood, to approve RESOLUTION 04-89 – A RESOLUTION WITHDRAWING AND RESCINDING RESOLUTION 04-58, which approved the land use application to annex Bull Mountain, and further to direct the City Attorney to take steps to dismiss the LUBA Appeal of Resolution 04-58.

The motion was approved by a unanimous vote:

Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

9. NON AGENDA ITEMS

FOLLOWUP FROM CITIZEN COMMUNICATION - JOHN FREWING'S CONCERN ABOUT WETLAND AREA NEXT TO LIBRARY

Mr. Monahan noted Mr. Duenas has been monitoring the situation Mr. Frewing is concerned about.

Mr. Duenas explained staff held a pre-application meeting with Mr. Fields, owner of the property adjacent to the library. When the City purchased the library site from Mr. Fields, a condition of the sale allowed Mr. Fields to retain access rights to his property on the other side of Fanno Creek from the library property. Old maps of the area show a trail leading across the creek. At this time, the access from the library property is the only legal access to that property that is passable. From Milton Court, there are green spaces and no legal access to Mr. Fields property. During the past several weeks, Mr. Fields brought in some heavier pieces of equipment to clear the blackberries and other vegetation in order to survey his property, to determine the area that might be developable or would need to be retained as wetland or floodplain areas. No trees were cut and he has not applied for a land use application. Enforcement of Tigard Municipal Code (TMC) provisions are triggered by development, which Mr. Fields is not doing. An inspector was sent last Friday to check on the work. The inspector found Mr. Fields was doing what he had indicated he was going to do, which was to do enough work to conduct his survey which is within his rights. The equipment had to cross Red Rock Creek, above where it intersects with Fanno Creek, where a long established culvert which had been filled in.

From the pictures submitted by Mr. Frewing and the inspection made last week, it was determined all activity was above the flood plain. When staff met with Mr. Fields, copies of the City's rules and regulations and the flood plain maps were provided. This work was necessary before he could come up with a plan for development. Mr. Fields found the aerial photographs did not represent the accurate conditions that the heavy tree and brush growth hid. Based on this survey, there is more developable land than was thought possible.

Council President Wilson noted Clean Water Services (CWS) has its regulations, and asked who is responsible for investigating possible violations.

Mr. Duenas replied the City is responsible for enforcement relating to wetlands and floodplains. Clean Water Services standards and requirements apply after permits have been issued. If property is just being cleared of brush, which actually is allowed by the City's Development Code to identify and survey the property, there is no violation of CWS definitions. The City's code and enforcement is not triggered until a land use application has been filed. Regarding the possible habitat for turtles, his staff did not see any turtles when they were there. The ponds, however, are suitable as an environment for turtles. He noted the Wall Street LID is in the design phase, which will realign Pine Grove Creek and make it a free-flowing creek as well as eliminate one of the ponds. CWS supports the plan as it will eliminate heated water from being discharged into Fanno Creek.

Mr. Monahan noted Mr. Duenas had referenced Wall Street LID, but it is not certain that project will actually happen. He recalled during the negotiations with Mr. Fields when the City purchased the library site, there was discussion about Mr. Fields being able to use this access. The City agreed to his request so he could access his property across the culvert, knowing that would be a temporary situation. He also noted he has limited access to the back portion in order to keep the grass mowed, but not was a permanent access for a development.

Councilor Sherwood noted this property is zoned industrial and asked what would be his access after development.

Mr. Monahan replied it would be Wall Street.

Councilor Sherwood asked what the impacts will be if the Wall Street LID does not happen.

Mr. Duenas replied that if Wall Street LID is not approved, there are other measures that would be taken. They could take the first 125 feet of Wall Street from Hall Blvd. along the library, and then possibly build a bridge across Fanno Creek to serve the property on the other side of the creek. It would not be possible to have access from

the other side of the railroad. He noted there is a pre-hearing conference scheduled for mid-December, after which staff will report to Council on the status of the proposed Wall Street LID, and Council will need to decide whether to proceed further with the LID.

Mr. Frewing explained the staff has not addressed the issue of tree removal. One part of the TMC defines trees as a "woody stem two inches in diameter, but Section 7.90 of the Code, which is the tree code, "defines trees as being six inches or larger." Mr. Fields cut a lot of trees which are still lying on the ground in that 25-acre area. He noted the pond turtles would not be seen now as they would be in hibernation. The survey the City had conducted for the preliminary planning of the Wall Street LID mapped the wetlands and flood plain very carefully, and before the library was built, another map of the flood plain was created. The library building is located one foot above the flood plain and a lot of the property is lower than that. Mr. Duenas wrote in an e-mail to him that Mr. Fields is not doing anything outside the TMC and cited TMC Section 7.75.020(b) that would allow this work. He felt subsections (d), (f) and (g) of that section should apply to this situation.

Mr. Duenas responded that he had responded by e-mail which Mr. Frewing may not have read yet. Those sections Mr. Frewing refers to is triggered by a land use application or land form alterations, which is not occurring.

Mr. Frewing stated he felt Mr. Fields was clearing his land, and these sections would apply. Even if he does not yet have a permit, by bringing in heavier equipment to survey the property, a lot of mud has been generated and huge ruts created from the equipment tires. The culvert they crossed on Red Rock Creek is located just five feet upstream from Fanno Creek. He is concerned the City is not enforcing its regulations. He would be willing to go out with staff or Council tonight or tomorrow to review the damage that has been caused. Regarding access from Milton Court located at the other end of the property, where a new city park is located, Metro owns that property, but it is in the flood plain, and there would have to be negotiations with Metro for access, but the wetlands could be avoided.

Councilor Woodruff asked Mr. Duenas to check if Mr. Fields is done with his work. Councilor President Wilson asked staff to review the code regarding Mr. Frewing's concern about trees being defined as two inches.

Mr. Duenas responded that he would contact Mr. Fields. He again pointed out that crossing the area does not trigger anything in terms of the City Code. He noted there is a long established trail across the culvert that was used to access the property across the creek. He will also check the TMC, but the Tree Code defines trees as being six inches in diameter.

Mr. Monahan noted staff will check into the Code as well as the status of Mr. Fields work activities, and whether any trees as defined by the Code have been cut, and would report back to Council.

COUNCIL TRAINING

Mr. Monahan noted that since there will be a change in the composition of the Council, Mr. Ramis had suggested providing some training on a variety of issues to Councilors.

Mr. Ramis stated he generated a list of topics that Council may want to have some training on, which he then distributed (Agenda Item #9, Exhibit No. 1, on file with the City Recorder). He asked Councilors to review the list and give him feedback on any topics they would like to have or do not feel they need.

Mr. Monahan read the list of items, and noted the law on local contracting would be changing shortly.

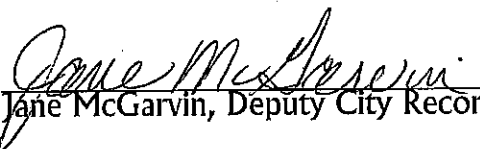
10. ADJOURNMENT

Upon motion of Councilor Woodruff, second by Councilor Sherwood, and unanimously carried, to adjourn the meeting at 9:07 p.m.

Attest:



Mayor, City of Tigard



Jane McGarvin, Deputy City Recorder

Date: 12.14.04